



# भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 7th December, 2015:—

BILL NO. 253 OF 2015

*A Bill to provide for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

### CHAPTER I PRELIMINARY

1. (1) This Act may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 23rd day of October, 2015.

Short title,  
extent and  
commence-  
ment.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Commercial Appellate Division” means the Commercial Appellate Division in a High Court constituted under sub-section (1) of section 5;

(b) “Commercial Court” means the Commercial Court constituted under sub-section (1) of section 3;

(c) “commercial dispute” means a dispute arising out of—

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(x) management and consultancy agreements;

(xi) joint venture agreements;

(xii) shareholders agreements;

(xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;

(xiv) mercantile agency and mercantile usage;

(xv) partnership agreements;

(xvi) technology development agreements;

(xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;

(xviii) agreements for sale of goods or provision of services;

(xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;

(xx) insurance and re-insurance;

(xxi) contracts of agency relating to any of the above; and

(xxii) such other commercial disputes as may be notified by the Central Government.

*Explanation.*—A commercial dispute shall not cease to be a commercial dispute merely because—

(a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;

(d) “Commercial Division” means the Commercial Division in a High Court constituted under sub-section (1) of section 4;

(e) “District Judge” shall have the same meaning as assigned to it in clause (a) of article 236 of the Constitution of India;

(f) “document” means any matter expressed or described upon any substance by means of letters, figures or marks, or electronic means, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

(g) “notification” means a notification published in the Official Gazette and the expression “notify” with its cognate meanings and grammatical variations shall be construed accordingly;

(h) “Schedule” means the Schedule appended to the Act; and

(i) “Specified Value”, in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 which shall not be less than one crore rupees or such higher value, as may be notified by the Central Government.

5 of 1908.  
1 of 1872.

(2) The words and expressions used and not defined in this Act but defined in the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872, shall have the same meanings respectively assigned to them in that Code and the Act.

## CHAPTER II

### CONSTITUTION OF COMMERCIAL COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS

3. (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Constitution  
of  
Commercial  
Courts.

Provided that no Commercial Court shall be constituted for the territory over which the High Court has ordinary original civil jurisdiction.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government shall, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court, from amongst the cadre of Higher Judicial Service in the State.

4. (1) In all High Courts, having ordinary civil jurisdiction, the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Act.

Constitution  
of  
Commercial  
Division of  
High Court.

(2) The Chief Justice of the High Court shall nominate such judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Division.

Constitution of Commercial Appellate Division.

**5.** (1) After issuing notification under sub-section (1) of section 3 or order under sub-section (1) of section 4, the Chief Justice of the concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Division Benches for the purpose of exercising the jurisdiction and powers conferred on it by the Act.

(2) The Chief Justice of the High Court shall nominate such judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Appellate Division.

Jurisdiction of Commercial Court.

**6.** The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

*Explanation.*—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908.

5 of 1908.

Jurisdiction of Commercial Divisions of High Courts.

**7.** All suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court:

Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court:

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (4) of section 22 of the Designs Act, 2000 or section 104 of the Patents Act, 1970 shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercises ordinary original civil jurisdiction.

16 of 2000.  
39 of 1970.

Bar against revision application or petition against an interlocutory order.

**8.** Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.

Transfer of suit if counterclaim in a commercial dispute is of Specified Value.

**9.** (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, in the event that a counterclaim filed in a suit before a civil court relating to a commercial dispute is of Specified Value, such suit shall be transferred by the civil court to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit.

5 of 1908.

(2) In the event that such suit is not transferred in the manner contemplated in sub-section (1), the Commercial Appellate Division of the High Court exercising supervisory jurisdiction over the civil court in question may, on the application of any of the parties to the suit, withdraw such suit pending before the civil court and transfer the same for trial or disposal to the Commercial Court or Commercial Division or, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

Jurisdiction in respect of arbitration matters.

**10.** Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—

(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed in a High Court, shall be heard and disposed of by the Commercial Appellate Division where such Commercial Appellate Division has been constituted in such High Court.

26 of 1996.

26 of 1996. (2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Appellate Division where such Commercial Appellate Division has been constituted in such High Court.

26 of 1996. (3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

11. Notwithstanding anything contained in this Act, a Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the jurisdiction of the civil court is either expressly or impliedly barred under any other law for the time being in force.

Bar of jurisdiction of Commercial Courts and Commercial Divisions.

### CHAPTER III SPECIFIED VALUE

12. (1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

Determination of Specified Value.

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; and

(e) where the counterclaim is raised in any suit, appeal or application, the value of the subject-matter of the commercial dispute in such counterclaim as on the date of the counterclaim shall be taken into account.

(2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

5 of 1908. (3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908, as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.

## CHAPTER IV

## APPEALS

Appeals from  
decrees of  
Commercial  
Courts and  
Commercial  
Divisions.

**13.** (1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgment or order, as the case may be:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996.

5 of 1908.  
26 of 1996.

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.

Expeditious  
disposal of  
appeals.

**14.** The Commercial Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

## CHAPTER V

## TRANSFER OF PENDING SUITS

Transfer of  
pending cases.

**15.** (1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of a Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division.

26 of 1996.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of a Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court:

26 of 1996.

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).

(3) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-section (2), the provisions of this Act shall apply to those procedures that were not complete at the time of transfer.

26 of 1996.

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XIV-A of the Code of Civil Procedure, 1908:

5 of 1908.

Provided that the proviso to sub-rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement shall be filed.

5 of 1908.

(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

## CHAPTER VI

## AMENDMENTS TO THE PROVISIONS OF THE CODE OF CIVIL PROCEDURE, 1908

- 5 of 1908. **16.** (1) The provisions of the Code of Civil Procedure, 1908 shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.
- 5 of 1908. (2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908, as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value.
- 5 of 1908. (3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908, as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.

Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.

## CHAPTER VII

## MISCELLANEOUS

- 17.** The statistical data regarding the number of suits, applications, appeals or writ petitions filed before the Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, the pendency of such cases, the status of each case, and the number of cases disposed of, shall be maintained and updated every month by each Commercial Court, Commercial Division, Commercial Appellate Division and shall be published on the website of the relevant High Court.
- 5 of 1908. **18.** The High Court may, by notification, issue practice directions to supplement the provisions of Chapter II of this Act or the Code of Civil Procedure, 1908 insofar as such provisions apply to the hearing of commercial disputes of a Specified Value.
- 19.** The State Government shall provide necessary infrastructure to facilitate the working of a Commercial Court or a Commercial Division of a High Court.
- 20.** The State Government may, in consultation with the High Court, establish necessary facilities providing for training of Judges who may be appointed to the Commercial Court, Commercial Division or the Commercial Appellate Division in a High Court.
- 21.** Save as otherwise provided, the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than this Act.
- 22.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:
- Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.
- (2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.
- Ord. 8 of 2015. **23.** (1) The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Collection and disclosure of data by Commercial Courts, Commercial Divisions and Commercial Appellate Divisions.

Power of High Court to issue directions.

Infrastructure facilities.

Training and continuous education.

Act to have overriding effect.

Power to remove difficulties.

Repeal and savings.

SCHEDULE  
(See section 16)

Amendment of section 26. **1.** In section 26 of the Code of Civil Procedure, 1908 (hereafter referred to as the Code), in sub-section (2), the following proviso shall be inserted, namely:— 5 of 1908.

“Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of Rule 15A”.

Substitution of new section for section 35. **2.** For section 35 of the Code, the following section shall be substituted, namely:—

Costs.

‘35. (1) In relation to any commercial dispute, the Court, notwithstanding anything contained in any other law for the time being in force or Rule, has the discretion to determine:

- (a) whether costs are payable by one party to another;
- (b) the quantum of those costs; and
- (c) when they are to be paid.

*Explanation.*—For the purpose of clause (a), the expression “costs” shall mean reasonable costs relating to—

- (i) the fees and expenses of the witnesses incurred;
- (ii) legal fees and expenses incurred;
- (iii) any other expenses incurred in connection with the proceedings.

(2) If the Court decides to make an order for payment of costs, the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party:

Provided that the Court may make an order deviating from the general rule for reasons to be recorded in writing.

*Illustration*

The Plaintiff, in his suit, seeks a money decree for breach of contract, and damages. The Court holds that the Plaintiff is entitled to the money decree. However, it returns a finding that the claim for damages is frivolous and vexatious.

In such circumstances the Court may impose costs on the Plaintiff, despite the Plaintiff being the successful party, for having raised frivolous claims for damages.

(3) In making an order for the payment of costs, the Court shall have regard to the following circumstances, including—

- (a) the conduct of the parties;
- (b) whether a party has succeeded on part of its case, even if that party has not been wholly successful;
- (c) whether the party had made a frivolous counterclaim leading to delay in the disposal of the case;
- (d) whether any reasonable offer to settle is made by a party and unreasonably refused by the other party; and
- (e) whether the party had made a frivolous claim and instituted a vexatious proceeding wasting the time of the Court.

(4) The orders which the Court may make under this provision include an order that a party must pay—

- (a) a proportion of another party's costs;
- (b) a stated amount in respect of another party's costs;
- (c) costs from or until a certain date;
- (d) costs incurred before proceedings have begun;
- (e) costs relating to particular steps taken in the proceedings;
- (f) costs relating to a distinct part of the proceedings; and
- (g) interest on costs from or until a certain date.'.

3. In section 35A of the Code, sub-section (2) shall be omitted.

Amendment  
of section  
35A.

4. In the First Schedule to the Code,—

Amendment  
of First  
Schedule.

(A) in the Order V, in Rule 1, in sub-rule (I), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”;

(B) in Order VI,—

(i) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Forms of pleading in Commercial Courts—In a commercial dispute, where forms of pleadings have been prescribed under the High Court Rules or Practice Directions made for the purposes of such commercial disputes, pleadings shall be in such forms.”;

(ii) after Rule 15, the following Rule shall be inserted, namely:—

“15A. Verification of pleadings in a commercial dispute.—

(1) Notwithstanding anything contained in Rule 15, every pleading in a commercial dispute shall be verified by an affidavit in the manner and form prescribed in the Appendix to this Schedule.

(2) An affidavit under sub-rule (1) above shall be signed by the party or by one of the parties to the proceedings, or by any other person on behalf of such party or parties who is proved to the satisfaction of the Court to be acquainted with the facts of the case and who is duly authorised by such party or parties.

(3) Where a pleading is amended, the amendments must be verified in the form and manner referred to in sub-rule (1) unless the Court orders otherwise.

(4) Where a pleading is not verified in the manner provided under sub-rule (1), the party shall not be permitted to rely on such pleading as evidence or any of the matters set out therein.

(5) The Court may strike out a pleading which is not verified by a Statement of Truth, namely, the affidavit set out in the Appendix to this Schedule.”;

(C) in Order VII, after Rule 2, the following Rule shall be inserted, namely:—

“2A. Where interest is sought in the suit,—

(1) Where the plaintiff seeks interest, the plaint shall contain a statement to that effect along with the details set out under sub-rules (2) and (3).

(2) Where the plaintiff seeks interest, the plaint shall state whether the plaintiff is seeking interest in relation to a commercial transaction within the meaning of section 34 of the Code of Civil Procedure, 1908 and, furthermore, if the plaintiff is doing so under the terms of a contract or under an Act, in which case the Act is to be specified in the plaint; or on some other basis and shall state the basis of that.

5 of 1908.

(3) Pleadings shall also state—

(a) the rate at which interest is claimed;

(b) the date from which it is claimed;

(c) the date to which it is calculated;

(d) the total amount of interest claimed to the date of calculation; and

(e) the daily rate at which interest accrues after that date.”;

(D) in Order VIII,—

(i) in Rule 1, for the proviso, the following proviso shall be substituted, namely:—

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”;

(ii) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court—

(1) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule.

(2) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.

(3) Where the defendant denies an allegation of fact in a plaint, he must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.

(4) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give his own statement as to which Court ought to have jurisdiction.

(5) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.”;

(iii) in Rule 5, in sub-rule (1), after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.”;

(iv) in Rule 10, after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.”;

(E) for Order XI of the Code, the following Order shall be substituted, namely:—

#### “ORDER XI

#### DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS IN SUITS BEFORE THE COMMERCIAL DIVISION OF A HIGH COURT OR A COMMERCIAL COURT

1. (1) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:—

Disclosure  
and discovery  
of  
documents.

(a) documents referred to and relied on by the plaintiff in the plaint;

(b) documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;

(c) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only—

(i) for the cross-examination of the defendant's witnesses, or

(ii) in answer to any case set up by the defendant subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.

(3) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.

*Explanation.*—A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.

(4) In case of urgent filings, the plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has

produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

(5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.

(6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.

(7) The defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counterclaim if any, including—

(a) the documents referred to and relied on by the defendant in the written statement;

(b) the documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defence;

(c) nothing in this Rule shall apply to documents produced by the defendants and relevant only—

(i) for the cross-examination of the plaintiff's witnesses,

(ii) in answer to any case set up by the plaintiff subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(8) The list of documents filed with the written statement or counterclaim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.

(9) The written statement or counterclaim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule (7) (c) (iii) pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counterclaim, have been disclosed and copies thereof annexed with the written statement or counterclaim and that the defendant does not have in its power, possession, control or custody, any other documents.

(10) Save and except for sub-rule (7) (c) (iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counterclaim, save and except by leave of Court and such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counterclaim.

(11) The written statement or counterclaim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.

(12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.

2. (1) In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Discovery by  
interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided further that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

(2) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court, and that court shall decide within seven days from the day of filing of the said application, in deciding upon such application, the court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.

(3) In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

5 of 1908.

(4) Interrogatories shall be in the form provided in Form No. 2 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.

(5) Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer of other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

(6) Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage, or on the ground of privilege or any other ground may be taken in the affidavit in answer.

(7) Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous and any application for this purpose may be made within seven days after service of the interrogatories.

(8) Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the court may allow.

5 of 1908.

(9) An affidavit in answer to interrogatories shall be in the form provided in Form No. 3 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.

(10) No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the court.

(11) Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the court for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or to answer further, either affidavit or by *viva voce* examination, as the court may direct.

Inspection.

3. (1) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counterclaim, whichever is later. The Court may extend this time limit upon application at its discretion, but not beyond thirty days in any event.

(2) Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.

(3) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.

(4) If the above application is allowed, inspection and copies thereof shall be furnished to the party seeking it, within five days of such order.

(5) No party shall be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.

(6) The Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a Court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.

Admission  
and denial of  
documents.

4. (1) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.

(2) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:—

- (a) correctness of contents of a document;
- (b) existence of a document;
- (c) execution of a document;
- (d) issuance or receipt of a document;
- (e) custody of a document.

*Explanation.*—A statement of admission or denial of the existence of a document made in accordance with sub-rule (2)(b) shall include the admission or denial of the contents of a document.

(3) Each party shall set out reasons for denying a document under any of the above grounds and bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the discretion of the Court.

(4) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party to in any manner whatsoever.

(5) An Affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of the statement.

(6) In the event that the Court holds that any party has unduly refused to admit a document under any of the above criteria,— costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the Court on such party.

(7) The Court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents.

**5.** (1) Any party to a proceeding may seek or the Court may order, at any time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.

Production of documents.

5 of 1908.

(2) Notice to produce such document shall be issued in the Form provided in Form No. 7 in Appendix C to the Code of Civil Procedure, 1908.

(3) Any party or person to whom such notice to produce is issued shall be given not less than seven days and not more than fifteen days to produce such document or to answer to their inability to produce such document.

(4) The Court may draw an adverse inference against a party refusing to produce such document after issuance of a notice to produce and where sufficient reasons for such non-production are not given and order costs.

21 of 2000.

**6.** (1) In case of disclosures and inspection of Electronic Records (as defined in the Information Technology Act, 2000), furnishing of printouts shall be sufficient compliance of the above provisions.

Electronic records.

(2) At the discretion of the parties or where required (when parties wish to rely on audio or video content), copies of electronic records may be furnished in electronic form either in addition to or in lieu of printouts.

(3) Where Electronic Records form part of documents disclosed, the declaration on oath to be filed by a party shall specify—

(a) the parties to such Electronic Record;

(b) the manner in which such electronic record was produced and by whom;

(c) the dates and time of preparation or storage or issuance or receipt of each such electronic record;

(d) the source of such electronic record and date and time when the electronic record was printed;

(e) in case of email ids, details of ownership, custody and access to such email ids;

(f) in case of documents stored on a computer or computer resource (including on external servers or cloud), details of ownership, custody and access to such data on the computer or computer resource;

(g) deponent's knowledge of contents and correctness of contents;

(h) whether the computer or computer resource used for preparing or receiving or storing such document or data was functioning properly or in case of malfunction that such malfunction did not affect the contents of the document stored;

(i) that the printout or copy furnished was taken from the original computer or computer resource.

(4) The parties relying on printouts or copy in electronic form, of any electronic records, shall not be required to give inspection of electronic records, provided a declaration is made by such party that each such copy, which has been produced, has been made from the original electronic record.

(5) The Court may give directions for admissibility of Electronic Records at any stage of the proceedings.

(6) Any party may seek directions from the Court and the Court may of its motion issue directions for submission of further proof of any electronic record including metadata or logs before admission of such electronic record.

7. For avoidance of doubt, it is hereby clarified that Order XIII Rule 1, Order VII Rule 14 and Order VIII Rule 1A of the Code of Civil Procedure, 1908 shall not apply to suits or applications before the Commercial Divisions of High Court or Commercial Courts.”. 5 of 1908.

Certain provisions of the Code of Civil Procedure, 1908 not to apply.

Insertion of new Order XIII-A.

5. After Order XIII of the Code, the following Order shall be inserted, namely:—

#### ‘ORDER XIII-A

#### SUMMARY JUDGMENT

Scope of and classes of suits to which this Order applies.

1. (1) This Order sets out the procedure by which Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.

(2) For the purposes of this Order, the word “claim” shall include—

(a) part of a claim;

(b) any particular question on which the claim (whether in whole or in part) depends; or

(c) a counterclaim, as the case may be.

(3) Notwithstanding anything to the contrary, an application for summary judgment under this Order shall not be made in a suit in respect of any Commercial Dispute that is originally filed as a summary suit under Order XXXVII.

Stage for application for summary judgment.

2. An applicant may apply for summary judgment at any time after summons has been served on the defendant:

Provided that, no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit.

Grounds for summary judgment.

3. The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that—

(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.

Procedure.

4. (1) An application for summary judgment to a Court shall, in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-clauses (a) to (f) mentioned hereunder:—

(a) the application must contain a statement that it is an application for summary judgment made under this Order;

(b) the application must precisely disclose all material facts and identify the point of law, if any;

(c) in the event the applicant seeks to rely upon any documentary evidence, the applicant must,—

(i) include such documentary evidence in its application, and

(ii) identify the relevant content of such documentary evidence on which the applicant relies;

(d) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;

(e) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.

(2) Where a hearing for summary judgment is fixed, the respondent must be given at least thirty days' notice of:—

(a) the date fixed for the hearing; and

(b) the claim that is proposed to be decided by the Court at such hearing.

(3) The respondent may, within thirty days of the receipt of notice of application of summary judgment or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in clauses (a) to (f) mentioned hereunder in addition to any other matters that the respondent may deem relevant:—

(a) the reply must precisely—

(i) disclose all material facts;

(ii) identify the point of law, if any; and

(iii) state the reasons why the relief sought by the applicant should not be granted;

(b) in the event the respondent seeks to rely upon any documentary evidence in its reply, the respondent must—

(i) include such documentary evidence in its reply; and

(ii) identify the relevant content of such documentary evidence on which the respondent relies;

(c) the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;

(d) the reply must concisely state the issues that should be framed for trial;

(e) the reply must identify what further evidence shall be brought on record at trial that could not be brought on record at the stage of summary judgment; and

(f) the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgment.

**5. (1)** Notwithstanding anything in this Order, if the respondent in an application for summary judgment wishes to rely on additional documentary evidence during the hearing, the respondent must:—

Evidence for hearing of summary judgment.

(a) file such documentary evidence; and

(b) serve copies of such documentary evidence on every other party to the application at least fifteen days prior to the date of the hearing.

(2) Notwithstanding anything in this Order, if the applicant for summary judgment wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must:—

(a) file such documentary evidence in reply; and

(b) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.

(3) Notwithstanding anything to the contrary, sub-rules (1) and (2) shall not require documentary evidence to be:—

(a) filed if such documentary evidence has already been filed; or

(b) served on a party on whom it has already been served.

Orders that  
may be made  
by Court.

**6. (1)** On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:—

(a) judgment on the claim;

(b) conditional order in accordance with Rule 7 mentioned hereunder;

(c) dismissing the application;

(d) dismissing part of the claim and a judgment on part of the claim that is not dismissed;

(e) striking out the pleadings (whether in whole or in part); or

(f) further directions to proceed for case management under Order XV-A.

(2) Where the Court makes any of the orders as set forth in sub-rule (1) (a) to (f), the Court shall record its reasons for making such order.

Conditional  
order.

**7. (1)** Where it appears to the Court that it is possible that a claim or defence may succeed but it is improbable that it shall do so, the Court may make a conditional order as set forth in Rule 6 (1) (b).

(2) Where the Court makes a conditional order, it may:—

(a) make it subject to all or any of the following conditions:—

(i) require a party to deposit a sum of money in the Court;

(ii) require a party to take a specified step in relation to the claim or defence, as the case may be;

(iii) require a party, as the case may be, to give such security or provide such surety for restitution of costs as the Court deems fit and proper;

(iv) impose such other conditions, including providing security for restitution of losses that any party is likely to suffer during the pendency of the suit, as the Court may deem fit in its discretion; and

(b) specify the consequences of the failure to comply with the conditional order, including passing a judgment against the party that have not complied with the conditional order.

Power to  
impose costs.

**8.** The Court may make an order for payment of costs in an application for summary judgment in accordance with the provisions of sections 35 and 35A of the Code.'.

Omission of  
Order XV.

**6.** Order XV of the Code shall be omitted.

7. After Order XV of the Code, the following Order shall be inserted, namely:—

Insertion of  
Order XV-A.

“ORDER XV-A

CASE MANAGEMENT HEARING

1. The Court shall hold the first Case Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

First Case  
Management  
Hearing.

2. In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order—

Orders to be  
passed in a  
Case Manage-  
ment  
Hearing.

(a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required;

(b) listing witnesses to be examined by the parties;

(c) fixing the date by which affidavit of evidence to be filed by parties;

(d) fixing the dates on which evidence of the witnesses of the parties to be recorded;

(e) fixing the date by which written arguments are to be filed before the Court by the parties;

(f) fixing the date on which oral arguments are to be heard by the Court; and

(g) setting time limits for parties and/or their advocates to address oral arguments.

3. In fixing dates or setting time limits for the purposes of Rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.

Time limit  
for the  
completion  
of a trial.

4. The Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete.

Recording of  
oral evidence  
on a day-to-  
day basis.

5. The Court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under Rule 2 and facilitate speedy disposal of the suit.

Case  
Management  
Hearings  
during a trial.

6. (1) In any Case Management Hearing held under this Order, the Court shall have the power to—

Powers of the  
Court in a  
Case  
Management  
Hearing.

(a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII-A;

(b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;

(c) extend or shorten the time for compliance with any practice, direction or Court order if it finds sufficient reason to do so;

(d) adjourn or bring forward a hearing if it finds sufficient reason to do so;

(e) direct a party to attend the Court for the purposes of examination under Rule 2 of Order X;

(f) consolidate proceedings;

(g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;

(h) direct a separate trial of any issue;

(i) decide the order in which issues are to be tried;

(j) exclude an issue from consideration;

(k) dismiss or give judgment on a claim after a decision on a preliminary issue;

(l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;

(m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;

(n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;

(o) delegate the recording of evidence to such authority appointed by the Court for this purpose;

(p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;

(q) order any party to file and exchange a costs budget;

(r) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(2) When the Court passes an order in exercise of its powers under this Order, it may—

(a) make it subject to conditions, including a condition to pay a sum of money into Court; and

(b) specify the consequence of failure to comply with the order or a condition.

(3) While fixing the date for a Case Management Hearing, the Court may direct that the parties also be present for such Case Management Hearing, if it is of the view that there is a possibility of settlement between the parties.

**7. (1)** The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the Court may adjourn the hearing to another date upon the payment of such costs as the Court deems fit, by the party moving such application.

(2) Notwithstanding anything contained in this Rule, if the Court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

**8.** Where any party fails to comply with the order of the Court passed in a Case Management Hearing, the Court shall have the power to—

(a) condone such non-compliance by payment of costs to the Court;

(b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be, or

Adjournment  
of Case  
Management  
Hearing.

Consequences of non-compliance with orders.

(c) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance.”.

**8.** In Order XVIII of the Code, in Rule 2, for sub-rules (3A), (3B), (3C), (3D), (3E) and (3F), the following shall be substituted, namely:—

Amendment  
of Order  
XVIII.

“(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of such judgments being relied upon by the party.

(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(3D) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3F) It shall be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.”.

**9.** In Order XVIII of the Code, in Rule 4, after sub-rule (1), the following sub-rules shall be inserted, namely:—

Amendment  
of Order  
XVIII.

“(1A) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first Case Management Hearing.

(1B) A party shall not lead additional evidence by the affidavit of any witness (including of a witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the Court.

(1C) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party shall be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit.”.

**10.** In Order XIX of the Code, after Rule 3, the following Rules shall be inserted, namely:—

Amendment  
to Order  
XIX.

“4. (1) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

Court may  
control  
evidence.

(2) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.”.

5. A Court may, in its discretion, for reasons to be recorded in writing—

Redacting or  
rejecting  
evidence.

(i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence; or

(ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

Format and guidelines of affidavit of evidence.

6. An affidavit must comply with the form and requirements set forth below:—

(a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(b) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(d) an affidavit shall state—

(i) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and

(ii) the source for any matters of information or belief;

(e) an affidavit should—

(i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(ii) be divided into numbered paragraphs;

(iii) have all numbers, including dates, expressed in figures; and

(iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon.”.

Amendment of Order XX.

11. In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

“(1) The Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.”.

## APPENDIX

## STATEMENT OF TRUTH

[Under First Schedule, Order VI-Rule 15A and Order XI-Rule (3)]

STATEMENT OF TRUTH BY [party position and name of party in full] I, the deponent above-named, do hereby solemnly affirm and declare as under:

1. I am [name of party and relevant details] in the above suit and competent to swear this affidavit.

2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say the statements made in [mention specific paragraph numbers] paragraphs are true to my knowledge and statements made in [mention specific paragraph numbers] paragraphs are based on information received which I believe to be correct and statements made in [mention specific paragraph numbers] are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of [number of pages] pages, each of which has been signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law.

Place:

Date:

## VERIFICATION

The statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT

## STATEMENT OF OBJECTS AND REASONS

The proposal to provide for speedy disposal of high value commercial disputes has been under consideration of the Government for quite some time. The high value commercial disputes involve complex facts and question of law. Therefore, there is a need to provide for an independent mechanism for their early resolution. Early resolution of commercial disputes shall create a positive image to the investor world about the independent and responsive Indian legal system.

2. The Law Commission of India in its 188th Report had recommended the constitution of the Commercial Division in each High Court. Accordingly, the Commercial Division of High Courts Bill, 2009 was introduced and passed by the Lok Sabha. However, during the discussion of the aforesaid Bill in the Rajya Sabha, some Members raised certain issues and in view thereof, the matter was again referred to the Law Commission of India for its examination. The Law Commission of India, in its 253rd Report, has recommended for the establishment of the Commercial Courts, the Commercial Division and the Commercial Appellate Divisions in the High Courts for disposal of commercial disputes of specified value.

3. Based on the recommendations of the Law Commission made in its 253rd Report, a Bill namely, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Bill, 2015 was introduced in the Rajya Sabha on 24th April, 2015 and the same is at present under the consideration of the Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice. As provided in the said Bill, 2015, all the suits, appeals or applications related to commercial disputes of specified value i.e. one crore or above, are to be dealt with by the Commercial Courts or the Commercial Division of the High Court.

4. By way of the Delhi High Court (Amendment) Act, 2015, the ordinary original jurisdiction of the Delhi High Court has been increased from rupees twenty lakhs to rupees two crore and there is a provision for transfer of pending case from the Delhi High Court to District Courts. On the enactment of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Bill, 2015, some of the Commercial Disputes which are to be transferred to the District Courts from the Delhi High Court may again be required to be transferred to the Commercial Division of the High Court of Delhi. It would cause delay in the disposal of cases as well as inconvenience to the parties and counsels and may also result in confusion. Therefore, it became necessary that the provisions of the Delhi High Court (Amendment) Act, 2015 and establishment of the Commercial Courts and Commercial Division of the High Courts may be brought into force simultaneously.

5. As Parliament was not in session and urgent steps were needed to be taken, the Commercial Courts, Commercial Division and Commercial Appellate Division in High Courts Ordinance, 2015 was promulgated on 23rd October, 2015.

6. It is proposed to introduce the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Bill, 2015 to replace the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 which, *inter alia*, provides for the following namely:—

(i) constitution of the Commercial Courts at District level except for the territory over which any High Court is having ordinary original civil jurisdiction;

(ii) constitution of the Commercial Divisions in those High Courts which are already exercising ordinary civil jurisdiction and they shall have territorial jurisdiction over such areas on which it has original jurisdiction;

(iii) constitution of the Commercial Appellate Division in all the High Courts to hear the appeals against the Orders of the Commercial Courts and the Orders of the Commercial Division of the High Court;

(iv) the minimum pecuniary jurisdiction of such Commercial Courts and Commercial Division is proposed as one crore rupees; and

(v) to amend the Code of Civil Procedure, 1908 as applicable to the Commercial Courts and Commercial Divisions which shall prevail over the existing High Courts Rules and other provisions of the Code of Civil Procedure, 1908 so as to improve the efficiency and reduce delays in disposal of commercial cases.

7. The proposed Bill shall accelerate economic growth, improve the international image of the Indian Justice delivery system, and the faith of the investor world in the legal culture of the nation.

8. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;

*The 25th November, 2015.*

D.V.SADANANDA GOWDA.

## BILL NO. 265 OF 2015

*A Bill further to amend the Payment of Bonus Act, 1965.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title  
and  
commencement.

**1.** (1) This Act may be called the Payment of Bonus (Amendment) Act, 2015.

(2) It shall be deemed to have come into force on the 1st day of April, 2015.

Amendment  
of section 2.

**2.** In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words “ten thousand rupees”, the words “twenty-one thousand rupees” shall be substituted.

21 of 1965.

Amendment  
of section 12.

**3.** In section 12 of the principal Act,—

(i) for the words “three thousand and five hundred rupees” at both the places where they occur, the words “seven thousand rupees or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher” shall respectively be substituted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

‘*Explanation.*—For the purposes of this section, the expression “scheduled employment” shall have the same meaning as assigned to it in clause (g) of section 2 of the Minimum Wages Act, 1948.’

11 of 1948.

Amendment of  
section 38.

4. In section 38 of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—

“(I) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the provisions of this Act.”.

## STATEMENT OF OBJECTS AND REASONS

The Payment of Bonus Act, 1965 (the Act) was enacted with a view to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith. Thereafter, the Act was amended several times and last amended in the year 2007.

2. According to clause (13) of section 2 of the Act, employee means any person (other than an apprentice) employed on a salary or wage not exceeding ten thousand rupees per mensem in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied. However, according to section 12 of the Act, the bonus payable to an employee whose salary or wage exceeds three thousand and five hundred rupees per mensem shall be calculated as if his salary or wage were three thousand and five hundred rupees per mensem.

3. The Central Government has been receiving representations from trade unions, individuals and various associations for enhancement or for removal of the above ceilings. After due consideration, the Central Government has decided to enhance the eligibility limit for payment of bonus from ten thousand rupees per mensem to twenty-one thousand rupees per mensem. The Central Government has also decided to raise the calculation ceiling from three thousand and five hundred rupees per mensem to seven thousand rupees per mensem or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher.

4. Section 38 of the Act empowers the Central Government to make rules for the purpose of giving effect to the provisions of the Act. Since, the said section does not provide for the previous publication of the rules, it is proposed to insert an enabling provision providing for previous publication for the purpose of inviting objections and suggestions in tune with the other legislations pertaining to welfare of labour.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 30th November, 2015.*

BANDARU DATTATREYA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION  
OF INDIA

[Copy of letter No. F.No. S-33021/2/2015-WB (Pt) dated 27 November, 2015 from Shri Bandaru Dattatreya, Minister of State for Labour and Employment to the Secretary General, Lok Sabha]

The President, having been informed of the subject matter of the Payment of Bonus (Amendment) Bill, 2015, recommends the introduction and consideration of the Bill in the House under clauses (1) and (3) of article 117 of the Constitution of India.

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FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend clause (13) of section 2 of the Payment of Bonus Act, 1965 (the Act), to enhance the eligibility limit for the payment of bonus from ten thousand rupees per mensem to twenty-one thousand rupees per mensem. Clause 3 of the Bill seeks to amend section 12 of the Act for enhancing the ceiling from three thousand and five hundred rupees per mensem to seven thousand rupees per mensem or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher.

2. In view of above, if calculation ceiling is adopted by the Government of India, the additional approximate expenditure for payment of *ad hoc* bonus to the employees of the establishments under the Central Government and employees belonging to Railways and Posts (Productivity Linked Bonus) would involve to the extent of three thousand one hundred and twenty-eight crores of rupees.

3. The Bill does not involve any other recurring or non-recurring expenditure.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend sub-section (1) of section 38 of the Payment of Bonus Act, 1965 (the Act) so as to empower the Central Government to make rules, subject to the condition of previous publication, by notification in the Official Gazette, to carry out the provisions of this Act.

2. The rules made under the proposed legislation shall be required to be laid before both Houses of Parliament.

3. The matters in respect of which said rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 266 OF 2015

*A Bill further to amend the Industries (Development and Regulation) Act, 1951.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title.

**1.** This Act may be called the Industries (Development and Regulation) Amendment Act, 2015.

Insertion of  
new section  
29E.

**2.** In the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act), after section 29D, the following section shall be inserted, namely:— 65 of 1951.

Validation.

“29E. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any power exercised, or action taken or done or purported to have been taken or done, by the Central Government or, as the case may be, the State Government, shall be deemed to be, and shall always deemed to have

been, for all purposes, as validly taken or done or omitted to be done, as if the amendment made to the First Schedule by the Industries (Development and Regulation) Amendment Act, 2015 had been in force at all material times and no suit or claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority as such.”.

**3.** On and from the date of commencement of the principal Act, in the First Schedule, for the heading “26. FERMENTATION INDUSTRIES:”, the heading “26. FERMENTATION INDUSTRIES (OTHER THAN POTABLE ALCOHOL):” shall be substituted.

Amendment of  
First Schedule.

## STATEMENT OF OBJECTS AND REASONS

The Industries (Development and Regulation) Act, 1951 was enacted to provide for the development and regulation of certain industries. Section 2 of the said Act declares that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule to the Act. Any industry engaged in the manufacture or production of any of the articles mentioned under each heading or sub-headings of the First Schedule to the Act would thus be under the control of the Union. The heading 26 of the First Schedule to the Act provides for Fermentation Industries which includes Alcohol and other products of fermentation industries.

2. According to the distribution of legislative powers contained in the Seventh Schedule to the constitution, entry 8 of List II—State List enumerates the subject matter “Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors” and entry 24 thereof, enumerates the subject matter “Industries subject to the provisions of entries 7 and 52 of List I”. While entry 7 of List I—Union List provides for the subject matter “Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war”, entry 52 thereof, provides for “Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest”. Thus, the authority to regulate the subject matter “intoxicating liquors” appears to vest both with the Union and the States. This has resulted in prolonged litigation.

3. The Supreme Court of India, in the case of Bihar Distillery and another versus Union of India and others (AIR 1997 SC 1208), has held that in the interest of proper delineation of the spheres of the Union and the States, the line of demarcation should be drawn at the stage of clearance or removal of the rectified spirit. Where the removal or clearance is for industrial purposes (other than the manufacture of potable liquor), the levy of duties of excise and all other control shall be with the Union and where the removal or clearance is for obtaining or manufacturing potable liquors, the levy of duties of excise and all other control shall be with the States.

4. In the backdrop of the above judgment of the Supreme Court, the Law Commission of India had recommended in its 158th Report that the heading 26 of the First Schedule to the Act be substituted as “Fermentation Industries but not including Alcohol”.

5. The recommendation of the Law Commission of India was examined in depth by the Government. If the subject “Alcohol” is taken out of the First Schedule to the Act, both industrial alcohol and potable alcohol would come under the purview of the State Government which is not in consonance with the judgment of the Supreme Court. Moreover, the effect of implementation of the recommendation of the Law Commission would be that the subject “Alcohol” which covers both industrial alcohol and potable alcohol would no longer be a Central subject.

6. Therefore, it is proposed to amend the First Schedule to the Industries (Development and Regulation) Act, 1951 by substituting the heading 26 thereof, as “26 Fermentation Industries (other than Potable Alcohol)”, so that it would be in conformity with the judgment of the Supreme Court and also ensure that the industries engaged in the manufacture of alcohol meant for potable purposes shall be under the total and exclusive control of States in all respects. The Central Government would continue to be responsible for formulating policy and regulating foreign collaboration (foreign direct investment and foreign technology collaboration agreements) for all products of fermentation industries, including industrial alcohol and potable alcohol.

7. The Bill seeks to achieve the above objectives.

## BILL NO. 264 OF 2015

*A Bill further to amend the Atomic Energy Act, 1962.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Atomic Energy (Amendment) Act, 2015.

Short title  
and com-  
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

33 of 1962.

2. In section 2 of the Atomic Energy Act, 1962 (hereinafter referred to as the principal Act), in sub-section (1), for clause (bb), the following clause shall be substituted, namely:—

Amendment  
of section 2.

‘(bb) “Government company” means a company in which—

(i) not less than fifty-one per cent. of the paid-up share capital is held by the Central Government; or

(ii) the whole of the paid-up share capital is held by one or more of the companies specified in sub-clause (i) and which, by its articles of association, empowers the Central Government to constitute and reconstitute its Board of Directors;’.

Amendment  
of section 14.

**3.** In the principal Act, in section 14, after sub-section (I), the following sub-sections shall be inserted, namely:—

“(IA) No licence under sub-clause (c) of clause (ii) of sub-section (I) shall be granted to a person other than a Department of the Central Government or any authority or an institution or a corporation established by the Central Government, or a Government company.

(IB) Any licence granted to a Government company under sub-section (I) shall stand cancelled in case the licensee ceases to be a Government company and, notwithstanding anything contained in any other law for the time being in force, all assets thereof shall vest in the Central Government free from any liability and the Central Government shall take such measures for safe operation of the plant and disposal of nuclear material so vested in it, as may be necessary in accordance with the provisions of section 3.”.

## STATEMENT OF OBJECTS AND REASONS

The Atomic Energy Act, 1962 empowers the Central Government to produce, develop, use and dispose of atomic energy either by itself or through any authority or corporation established by it or by a Government company and carry out research in any matters connected therewith.

2. At present, only two Public Sector Undertakings (PSUs), namely, Nuclear Power Corporation of India Limited (NPCIL) and Bhartiya Nabhikiya Vidyut Nigam Limited (BHAVINI), which are under the administrative control of the Department of Atomic Energy, are operating nuclear power plants in the country. Formation of Joint Venture companies by NPCIL with other PSUs of India for civil nuclear power projects is under consideration to meet the additional funding requirements for expanding nuclear power programme and augmenting the nuclear power generation capacity of India.

3. The expression “Government company” has been defined in the Act to mean a company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government. The Act thus precludes a Government company from entering into Joint Ventures with other PSUs for the above said purposes for the reason that any Joint Venture company formed by two PSUs may not be subject to the control of the Central Government as a shareholder.

4. The Atomic Energy (Amendment) Bill, 2015 seeks to overcome this difficulty by amending the definition of “Government company” under clause (bb) of sub-section (1) of section 2 of the said Act with a view to expand its scope by including such Joint Venture companies as may be formed between NPCIL and other PSUs. This Bill also proposes to make a consequential amendment in section 14 of the said Act to enable the Central Government to issue licence to such Joint Venture companies to set up nuclear power plants, take measures for their safe operation and to ensure disposal of nuclear material. It further provides for cancellation of licence in case the licensee ceases to be a Government company.

5. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 27th November, 2015.*

JITENDRA SINGH.

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ANOOP MISHRA  
Secretary General